

ALJ/GEW/avs

Decision 01-10-046 October 25, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the
Donner Lake Water Company (U 84-W) to issue
evidence of indebtedness (Promissory Notes and
Loan Agreements) in the approximate amount of
\$12,000,000 and to grant security interest in its
assets for capital expenditures within its Donner
Lake Service Area.

Application 00-12-011
(Filed December 11, 2000)

O P I N I O N

1. Summary

Because a public entity has taken possession of the water system operated by the Donner Lake Water Company (Donner), this application for loan authority is moot. The application is dismissed.

2. Discussion

By order of the Nevada County Superior Court on May 18, 2001, the Truckee Donner Public Utility District (TDPUD) took possession in eminent domain of Donner's water system. Further proceedings in that Court will determine just compensation for a transfer of ownership of the Donner system to TDPUD. TDPUD has undertaken the repairs that Donner was to perform. Donner did not oppose the change in possession.

Donner on December 11, 2000, had filed this application to borrow up to \$15.5 million, most of it in a low-interest state loan, to make emergency repairs

this year and to replace the water system over a five-year period. That relief is no longer necessary in view of the change in possession of the system.

Parties on June 13, 2001, were asked whether any action by the Commission in this proceeding could contribute to the restoration of the Donner water system. The parties have responded that no further action in this proceeding is necessary, although TDPUD indicates that the Commission may be asked at a later date to assist in various accounting matters.

On August 22, 2001, parties were invited to comment on the proposed dismissal of this proceeding. Dismissal is supported by TDPUD and by ratepayer protestants. Donner suggests that the proceeding remain open until it is certain that possession of the water system will not revert to the company.

We deem it unlikely that Donner will again take possession of the water system. Our dismissal, however, is without prejudice to refiling of this application should reversion occur.

Accordingly, the relief requested in this application has become moot, and the application may be dismissed.

3. Comments on Proposed Decision

The proposed decision of the administrative law judge (ALJ) was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. The Water Branch of the Office of Ratepayer Advocates (ORA) filed comments suggesting that this proceeding remain open. ORA states that the price required to complete condemnation has not been set, and therefore Donner may at some point regain possession of the water system. Even were that to happen, however, this application would have to be substantially amended to deal with the work accomplished by TDPUD after it assumed possession. Because of this, refiling the application to take note of

then-existing circumstances would make for a cleaner record than after-the-fact amendment of the current outdated application. If refiling takes place, applicant may move for admission of any relevant testimony and other evidence that had been received in this docket.

In Resolution ALJ 176-3053 dated December 21, 2000, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were necessary. Hearings were conducted in Truckee on April 3-5, 2001.

Findings of Fact

1. By court order, TDPUD on May 18, 2001, took possession in eminent domain of Donner's water system.
2. TDPUD has undertaken repairs to the water system that Donner previously was required to perform.
3. Donner's request in this application for authority to borrow up to \$15.5 million to repair and replace the water system has become moot.

Conclusion of Law

This application should be dismissed as moot, without prejudice to refiling in the event that possession of the water system reverts to Donner.

O R D E R

IT IS ORDERED that:

1. The application of the Donner Lake Water Company to issue evidence of indebtedness and to grant security interest in its assets for capital expenditures within its Donner Lake Service Area is dismissed without prejudice to refiling at a later time.

2. This proceeding is closed.

This order is effective today.

Dated October 25, 2001, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN

Commissioners